



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/470,537	12/22/1999	BRANDON A. GROOTERS	98-0722	6274

32718 7590 06/16/2004

GATEWAY, INC.  
ATTN: SCOTT CHARLES RICHARDSON  
610 GATEWAY DR., Y-04  
N. SIOUX CITY, SD 57049

EXAMINER

YENKE, BRIAN P

ART UNIT

PAPER NUMBER

2614

DATE MAILED: 06/16/2004

23

Please find below and/or attached an Office communication concerning this application or proceeding.



UNITED STATES PATENT AND TRADEMARK OFFICE

---

COMMISSIONER FOR PATENTS  
UNITED STATES PATENT AND TRADEMARK OFFICE  
P.O. Box 1450  
ALEXANDRIA, VA 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

**MAILED**

**JUN 16 2004**

**Technology Center 2600**

**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Paper No. 23

Application Number: 09/470,537  
Filing Date: December 22, 1999  
Appellant(s): GROOTERS, BRANDON A.

\_\_\_\_\_  
Christopher Rueppell (Reg. No. 47,045)  
For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed March 01, 2004.

***(1) Real Party in Interest***

A statement identifying the real party in interest is contained in the brief.

***(2) Related Appeals and Interferences***

A statement identifying that no related appeals and interferences which will directly affect or be directly affect by or have a bearing on the decision in the pending appeal is contained in the brief.

***(3) Status of Claims***

The appellant's arguments with respect to claims 27-35 are persuasive and therefore the rejection has been withdrawn. The examiner maintains the rejection of claims 1-26 as stated below.

***(4) Status of Amendments***

All amendments have been entered.

***(5) Summary of Invention***

The summary of invention contained in the brief is correct.

***(6) Issues***

The issues contained in the brief are incorrect. See appellant's issues and the examiner's response below.

***(7) Grouping of Claims***

Appellant's brief includes a statement that Group I comprises claims 1-26 and Group II comprises claims 27-35.

Art Unit: 2614

**(8) Claims Appealed**

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(9) Prior Art of Record**

The following is a listing of the prior art of record relied upon in the rejection of claims under appeal.

US 6,137,726	Darbee et al.	10-2000
--------------	---------------	---------

US 6,571,392	Zigmund et al.	05-2003
--------------	----------------	---------

**(10) Ground of Rejection**

The following ground(s) of rejection are applicable to the appealed claims.

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Darbee et al., US 6,130,726 in view of Zigmund et al., US 6,571,392.

In considering claims 1, 8 and 14-17,

Darbee discloses a remote control system which receives via a selective download (col 3, line 32-34) advertising and programming data which is stored in the remote control.

The selective download occurs upon the identification of the remote control unit itself, an identification of the user of the remote control or upon some assessment of the

Art Unit: 2614

viewing habits or preferences of the user. Darbee also discloses that an object of the remote control is to store only a subset of available program guide and/or advertising information. The subset could be specific channels, specific areas of user interest, specific genres of programming or specific times. Darbee also discloses new program guide data being provided to the remote each time that a user activates the remote control or selects a channel for viewing. Darbee also discloses that the software application running on the remote obtains and causes to be stored in memory data indicative of the viewing habits of the viewer. Also, Darbee discloses transmitting the stored program/content selection history (col 20, line 40-43), address and user identification to a set-top box or provider/host system, which provides the remote a tailored/filtered data corresponding to the remote transmitted data. Darbee also discloses that the amount of memory in a remote control usually must be minimized (col 3, line 40-45), and where the wireless link (IR or RF) to the remote also generally have a finite bandwidth. Darbee also discloses (col 4, line 19-33) that the remote control may also be provided with alternative data links than traditional broadcast sources, (cable, satellite, network channels) such as paging networks, FM SCA data links, modem links and or other data links, including wireless and non-wireless links to the internet.

*a) the claimed first information handling system...* is met by a television receiver or set-top box (col 4, line 20-32)

*b) the claimed second information handling system...* is met by remote control 10 (Fig 1)

Art Unit: 2614

*c) the claimed said first information handling system being capable of displaying...* is met by a television receiver or a set-top box connected to a display

*d) the claimed said first information handling system being capable of responding...* is met where the set-top box/display parses/filters/tailors the programming/advertising/EPG data sent to the remote based on a channel change/selection/identification of a new user/user history/remote identification (col 3, line 64-67, col 10, line 38-46)

*e) the claimed said second information handling system being capable of displaying even related program guide data on said second display, wherein said second information handling system receives an input for event related program guide data* is met by display 14 (Fig 1). Where the remote control 10 receives an input via user, and selectively downloads to and stores within the remote upon identification of the user advertising and programming data based upon the users viewing habits and preferences (col 3, line 31-39). Since the amount of memory in a remote control must be minimized, one or more unique serial numbers and/or addresses may be stored in memory in the remote control which can be used to filter and/or parse data transmitted by an associated set-top box or RF tap. This makes it possible to send specific program guide, advertising or other information to individual users. The remote control 10 may also receive blocks of program guide data each time a user activates remote control 10 or uses remote control 10 to select a channel for viewing (col 9, line 14-20). The remote control 10 includes a display 14 to display the program guide data (Fig 5a).

Art Unit: 2614

However, Darbee does not explicitly recite "determining whether event related program guide data is available in the second information handling system" (5), and the reference is in fact silent as to whether or not local storage is first considered when data is requested.

The examiner incorporates Zigmond et al., US 6,571,392 which discloses a receiver unit 201 which receives a Uniform Resource Identifier (URI) which identifies the information resource, along with the broadcast of the television video signal. The receiver unit checks it's own local memory/storage unit of the receiver to determine if the information resource identified by the URI is available (in the memory). In the event the information resource is present/available the receiver uses the URI to retrieve the information resource locally, otherwise when the information resource is not present/not available the receiver uses the URI to retrieve the information resource from the internet (Fig 2).

Generally speaking, Zigmund et al teaches a process by which information is retrieved rapidly from local storage when possible, and otherwise retrieval over a communication link. One of ordinary skill in the art would have recognized that this provides a more efficient means of data retrieval and use of local storage. Therefore, the examiner submits that it would have been obvious to one of ordinary skill in the art to modify Darbee et al with such teachings for the stated advantages.

In considering claim 2-5 and 9-11,

Art Unit: 2614

Darbee discloses that a television (or set-top box) communicates to remote 10 via infrared 34 (receive) and RF 48 (Rx/Tx), where remote 10 communicates to the television (or set-top box) via IR 35 (transmit) and RF 48 (Rx/Tx) (Fig 2).

In considering claims 6-7 and 12-13,

*a) the claimed said first information handling system...* is met where the television displays a selected channel, or program guide based on a users selection via remote (10).

*b) the claimed second information handling system...* is met where remote 10 provides a channel up/down 18, EZ navigator 20, EZ information 22, EZ Guide 24 and EZ Menu Key 25 among others (col 6, line 50-61).

*c) the claimed said event related program guide data is capable...* is met where remote 10 receives and stores data comprising a guide which covers a 24-hour period (col 8, line 20-26).

In considering claims 18-20,

Darbee discloses a remote control device 10 which is able to display what the main display (television) is displaying and also gives the user the ability to search other channels, menu, guides without disrupting the main display. The remote control stores data comprising a guide which covers a 24-hour period which will preferably be updated at 4:00am each day (col 8, line 20-26).



In considering claims 21-22,

Darbee discloses a remote control system which receives via a selective download (col 3, line 32-34) advertising and programming data which is stored in the remote control. The selective download occurs upon the identification of the remote control unit itself, an identification of the user of the remote control or upon some assessment of the viewing habits or preferences of the user. Darbee also discloses that an object of the remote control is to store only a subset of available program guide and/or advertising information. The subset could be specific channels, specific areas of user interest, specific genres of programming or specific times. Darbee also discloses new program guide data being provided to the remote each time that a user activates the remote control or selects a channel for viewing. Darbee also discloses that the software application running on the remote obtains and causes to be stored in memory data indicative of the viewing habits of the viewer. Also, Darbee discloses transmitting the stored program/content selection history (col 20, line 40-43), address and user identification to a set-top box or provider/host system, which provides the remote a tailored/filtered data corresponding to the remote transmitted data. Darbee also discloses that the amount of memory in a remote control usually must be minimized (col 3, line 40-45), and where the wireless link (IR or RF) to the remote also generally have a finite bandwidth. Darbee also discloses (col 4, line 19-33) that the remote control may also be provided with alternative data links than traditional broadcast sources, (cable, satellite, network channels) such as paging networks, FM SCA data links,

Art Unit: 2614

modem links and or other data links, including wireless and non-wireless links to the internet.

*b) the claimed transmitting the event related program guide data...* is met by a television (or set-top box) which receives a user input via remote 10 (either RF or IF) and where the television transmits the desired information into remote 10 (via receive RF 48 or IR 34).

*c) the claimed storing the transmitted even related program...* is met where remote 10 comprises a microcontroller 28 which controls the processing of data utilizing bus 42 and memories 36 and 42.

*d) the claimed displaying at least a portion of the event related program guide data...* is met where display (LCD 14) of remote 10 displays the desired program guide information based on users input. Where the remote control 10 receives an input via user, and selectively downloads to and stores within the remote upon identification of the user advertising and programming data based upon the users viewing habits and preferences (col 3, line 31-39). Since the amount of memory in a remote control must be minimized, one or more unique serial numbers and/or addresses may be stored in memory in the remote control which can be used to filter and/or parse data transmitted by an associated set-top box or RF tap. This makes it possible to send specific program guide, advertising or other information to individual users. The remote control 10 may also receive blocks of program guide data each time a user activates remote

In considering claims 23-26,

Darbee discloses a remote control device 10 which is able to display what the main display (television) is displaying and also gives the user the ability to search other channels, menu, guides without disrupting the main display. The remote control stores data comprising a guide which covers a 24-hour period which will preferably be updated at 4:00am each day (col 8, line 20-26).

***Allowable Subject Matter***

2. Claims 27-35 are allowed.

The following is an examiner's statement of reasons for allowance:

Claim 27: Prior Art fails to show/suggest a first information handling system/display which can display program content and EPG data and a second information handling system/display which can display event related program guide data where the event related program guide data on the second display corresponds to the EPG data displayed on the first system/display, where the first and second system/display communicatively coupled together.

Claim 31: Prior Art fails to show/suggest the method of upon an event, sending a request for program guide data to a second information handling system/display from a first system/display, where the 2<sup>nd</sup> system/display fetches the event related program guide data upon receipt of the request and transmits the data to the 1<sup>st</sup> system/display, where the 1<sup>st</sup> system/display upon displays the data upon receipt, where the event

Art Unit: 2614

related program guide data displayed on the 1<sup>st</sup> system/display corresponds to EPG guide data displayed on a 2<sup>nd</sup> system/display.

Any comments considered necessary by appellants must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### ***(11) Response to Arguments***

#### **Appellant's Arguments**

Regarding claims 1-26 the appellant states that the Zigmond reference relied upon by the examiner, is directed towards a receiver unit and the appellant recites claim 1 of Zigmond "determining, based on the resource identifier, if the information resource is present in the local storage." (Zigmond, col 13, lines 26-27). The appellant states that the functionality of Zigmond is provided without receiving an input for event related program guide data.

#### ***Examiner's Response***

The examiner agrees with the appellant that the Zigmond reference is a receiver unit, and that Zigmond determines based on the resource identifier if the information is present in the local storage without receive an input for event related program guide data. The Zigmond reference was relied upon in the rejection merely to show the checking of a local memory first in determining if the desired information is

Art Unit: 2614

available/stored, prior to retrieving the information from another source, is conventional in the art.

***(12) Response to Issues***

***Appellant's Issues***

The appellant states the examiner incorrectly reopened prosecution, by impermissibly engaging in piecemeal examination of the application by raising a 35 USC 103(a) rejection at this point in prosecution. The appellant repeats the detailed history of the application, and then concludes Issue I by requesting the rejection be withdrawn and the appeal reinstated.

***Examiner's Response***

The appellant appears to imply that the rejection using Zigmond is improper merely because it was applied and cited at this late date, however, it should be recognized that the claims have been amended and added numerously throughout the course of prosecution and these amendments prompted the examiner to reevaluate the claims in light of the prior art. It is incumbent upon the office to reevaluate the claims throughout the course of prosecution.

In sum the argument of incorrectly reopening prosecution has no bearing on whether the applied art in fact reads on the proposed invention. The stage in prosecution, whether late or not, does not negate whether the art is applicable to the claims.

***Appellant's Issues***

The appellant states that since claims 27-35 were rejected using the same grounds in the Final Office Action of 08 April 2002, and since it does not provide new grounds for rejection, the examiner cannot rely on this rejection to properly reopen prosecution. The appellant states that since the rejection of claims 1-26 citing Darbee in view of Zigmond is impermissible, the rejection of claims 27-35 made under 35 USC 103(a) citing Darbee does not provide the required new grounds for reopening prosecution.

***Examiner's Response***

The examiner disagrees with the appellant's assertion that the reopening of prosecution was improper. The appellant first argues/raises the issue that the rejection of claims 1-26 is not proper because of the reliance on newly applied art (Zigmond), then the appellant goes on to state that since the rejection of claims 27-35 does not include a new grounds of rejection that the reopening of prosecution is improper.

The examiner cannot find anywhere in the MPEP that would preclude the examiner from rejecting some claims with newly applied art, and maintaining the rejection of other claims.

Upon further examination claims 27-35 have now been allowed, therefore the issues regarding claims 27-35 are now moot.

***Appellant's Issues***

The appellant repeats previously raised issues regarding claims 1-26 and the use of Darbee as a 35 USC 102(e) reference.

***Examiner's Response***

Since the issue raised by the appellant's concerns a previous rejection, which has been withdrawn, the examiner will not address the issue.

***Appellant's Issues***

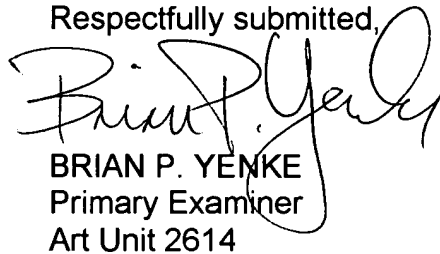
The appellant repeats previously raised issues regarding claims 27-35 and the use of Darbee as a 35 USC 103(a) reference.

***Examiner's Response***

Upon further examination the examiner has allowed claims 27-35, thus the issues regarding the rejection of claims 27-35 are now moot.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,



BRIAN P. YENKE  
Primary Examiner  
Art Unit 2614



BPY

June 3, 2004

Conferees

Victor R. Kostak



John W. Miller

